



November 27, 2012
VIA FACSIMILE AND U.S. MAIL

Dr. Jim W. Burnett, Office of the President
Atticus Simpson, Vice President, Student Development
Susan M. Williams, Dean of Student Services
Western Piedmont Community College
1001 Burkemont Ave.
Morganton, NC 28655
Fax: (828) 448-6175
Fax: (828) 448-6170

Re: Violation of the First Amendment Rights of the BEST Society

President Burnett, Vice President Simpson, and Dean Williams:

Our firm represents Trudy Pascoe and other student members of the BEST Society who recently found their advertisement for a Christmas Tree Sale subjected to censorship when the words "Christmas Tree" were unilaterally and uniformly replaced with the words "Holiday Tree" by the Western Piedmont Community College (WPCC) administration in order to avoid any "association solely with a Christian event." It is our opinion that this censorship by WPCC officials is a violation of the First Amendment rights of the members of the BEST Club.¹

The relevant facts are as follows. WPCC has created a forum to allow student clubs to announce activities and events through a variety of avenues. According to the Marketing Submission Form, students can have their message displayed on Monitor Screens, the Marquee, in Pioneer Press, through a Press Release, and on WPCC's Website. The bottom of the form contains space where each club can write the "Text to Include" in the announcements. Several clubs at WPCC regularly make use of this announcement forum. For example, the Film and Fine Arts Club recently promoted several free film viewings as part of the International Film Festival. Various club meetings, concerts, and a "Trick-or-Treat" were also publicized.

On September 17, 2012, the BEST Society submitted a Marketing Submission Form requesting to announce its Christmas Tree Sale. The proposed text stated that "The BEST Society will be selling Christmas Trees" and that anyone interested in purchasing a tree should "[c]ontact any BEST Member" for more information. The form requested that the announcement

¹ Our client, Trudy Pascoe, also forwarded you an informational letter from the American Center for Law and Justice, a firm that engages in similar litigation activities as Alliance Defending Freedom but that does not represent Trudy Pascoe or the BEST Society in this current matter. As you saw from ACLJ's letter, they concur in our conclusion that WPCC's censorship of the BEST Society's advertisements is a violation of the members' constitutional rights.

be included in all of the available internal and external marketing tools. In the October 29, 2012 Pioneer Press, the advertisement appeared exactly as requested by BEST in its Marketing Submission Form. But just a few days later, on November 1, 2012, when the club's announcement was posted on WPCC's website, it had been altered. Every reference to "Christmas Trees" had been replaced with "holiday trees." The change was also made in the Marquee and in the November 19, 2012 Pioneer Press which now stated that "The BEST Society will be selling Holiday Trees."

On November 7, 2012, Trudy Pascoe, Secretary of the BEST Society, contacted Community Relations Director Libby Barger to inquire as to why the club's message promoting the sale of Christmas Trees had been censored and edited by the college. Ms. Barger responded that "We cannot market your trees in association solely with a Christian event." As a result of this forced change to their advertisements, the BEST Society has received complaints from community members, several of whom have indicated that they will not purchase trees from the group because of the change in wording. This has resulted in direct harm to the club's fundraising activity, the proceeds of which are being used to support Angel Tree, an organization that provides Christmas gifts to children.

It is our opinion that the censorship of the BEST Society's message, and the requirement that its advertisements use the phrase "holiday tree" rather than Christmas Tree, is a violation of the constitutional rights of the club members. The Free Speech Clause of the First Amendment prohibits public universities from censoring the speech of student groups based on the content or viewpoint of their expression. *See Rosenberger v. Rector & Visitors Univ. of Va.*, 515 U.S. 819 (1995) ("It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.") WPCC's removal of all references to Christmas in BEST's advertisements because of the religious message conveyed in the advertisements is blatant viewpoint discrimination in violation of the First Amendment.

Because of the ongoing harm to the Best Society's fundraiser which ends on December 6, 2012, we ask that you respond to this letter by Thursday, November 29, 2012 and provide written confirmation that the BEST Society's advertisements will no longer be censored and that all current advertisements on the website, marquee, etc. will be immediately revised to refer to Christmas Trees, not holiday trees. If we do not receive written confirmation by that date, then we will advise our clients of their right to pursue legal remedies against WPCC for the violation of their constitutional rights.

Cordially,



Jeremy D. Tedesco, Senior Legal Counsel
J. Matthew Sharp, Legal Counsel